Case 1:04-cv-10644-MEL Document 41-2 Filed 03/03/2006 Page 1 of 17

EXHIBIT 1





August 23, 2000

Redacted

Dear

As you are aware, you recently concluded a medical leave and were expected to return to work on August 8, 2000. You have neither returned to work nor responded to my telephone message of August 10, 2000, or my letter of August 14, 2000. As you have not appeared for work or contacted us, I can only conclude that you have chosen to voluntarily terminate your employment with Boston University. Accordingly, I will be processing the paperwork today to terminate you from the system.

We hope that you are feeling better and wish you all the best in the future.

Sincerely,

Linda H. McNeil Administrator

Cc: Allen A. Mitchell, M.D. Dawn Jacobs

George T. Snowdon

BU 0536



August 14, 2000

Redacted

Dear

As you know, your recent medical leave under the Family and Medical Leave Act began on May 16, 2000, and ended on August 8, 2000, as detailed in the letter of July 7, 2000, from George T. Snowdon. We have not heard from you concerning your intentions to either return to work or to extend your medical leave. We, therefore, will have to fill your position and will be happy to accept your application for appropriate positions that may become available in the future.

We will be receptive to your request to extend your medical leave. Please put your request in writing and send it to my attention.

We all hope that you are feeling better.

Sincerely,

Linda H. McNeil Administrator

Cc: Allen A. Mitchell, M.D. Dawn Jacobs

George T. Snowdon

BU 0537

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SLONE EPIDEMIOLOGY UNIT

Interoffice Memo

TO:

George Snowden

Michelle Hamm

FROM: Maureen Corbett William

DATE:

July 18, 2000

RE:

Redected

's turnaround. She has been on a medical leave since Attached you will find May 17, 2000. We just received the completed request last week so her turnaround was never sent over for processing. She has been approved for her leave until 8/7/00 although she should not get paid after 7/25/00.

Please let me know if you need any further information.

Thank you.

Maureen

WORD:MMOTEMP

DITTLE DE LENGOMMET

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BOSTON UNIVERSITY MEDICAL CAMPUS

Leave of Absence - Available Paid Time (Staff) 00 JUL 14 AM 10: 42

To: Redacks	<u> </u>		RECEIVED RECEIVED RECEIVED
From: LINDA MAN (Mail Code Coordina			S+-0/U,
Date: 7/12/10			
This will confirm the ava	ilable paid time which	will be applied to your:	
X Leave of Absence	which has been appro	oved from <u>5/17/10</u> t	0_8/7/00_
Intermittent Leave basis:	e or Reduced Time Sc	hedule which has been ap	oproved on the following
As of 7/25/00	our records show th	e following available paid	l time:
12		will be applied to leave	will not be applied to leave
Sick Time	31.51 ks.	31.51 hs.	
- Vacation Time	375.14 hrs.	376.49 ks.	
Compensatory time			
Personal Days		·	
eriod of paid leave:	slinla	to7/25/00	
eriod of unpaid leave:	7/26/00	to <u>8/7/00</u>	
lease refer to the reverse	side of the Staff Re Manager of Benefits	quest / Notification for at 617-638-4610.	Leave form for further BU 0539
		nave any questions regard	ing this information.
opy: Manager of Benefits	e of Personnel,	560 Harrison Aven.	floor

Case 1:04-cv-10644-MEL



Boston University Medical Campus

Office of Personnel

715 Albany Street, 560-4 Boston, Massachusetts 02118

560 Harrison Avenue, 4th Floor Boston, Massachusetts 02118

Tel: [617] 638-4610 Fax: (617) 638-8820

George T. Snawdan Director of Personn

(Mailing Address)

(Location)

July 7, 2000

Redacted

RE: Family and Medical Leave

Dear

This confirms that you have requested a Family and Medical Leave under Boston University's Family and Medical Leave Policy (the "Policy") and the Family and Medical Leave Act of 1993 (the "FMLA"). This letter is intended to give you basic information about some of your rights and obligations under the Policy and the FMLA.

Designation of Leave and Effect on Leave Entitlement

Subject to any verification that may be required under this Policy, your leave is designated as a leave covered by both the Policy and the FMLA. Under the FMLA you are entitled to up to 12 weeks of qualifying Family and Medical Leave in a 12 month period.

Pay Status During Leave

You may qualify to receive pay while on leave under the University's Sick Leave or Shortterm Disability policies. If so, you should follow the procedures under these policies to request paid leave. Once your sick leave is exhausted, any accrued but unused vacation and available compensatory time must be used to the extent available for the remainder of your leave.

Health and Dental Plan Coverage

During the leave you will have the opportunity to continue your health and dental plan coverage by paying the same share for such coverage as is charged to active employees. During any paid portion of your leave, the employee share will be deducted from your pay in the same manner as it is for active employees.

· Family and Medical Leave Request

Page 2

July 7, 2000

During any unpaid portion of your leave, the Benefits Office will contact you directly to make arrangements for you to make your regular payments to the health and dental plans. If you do not pay the required employee share within 30 days of the date that payment is due, your health and dental plan coverage will cease.

Providing Information While on Leave

During the leave, you may be contacted periodically about your status and/or about your intent to return to work. You will be expected to be fully responsive to such requests. You may also be required to provide medical information under certain circumstances when requested.

Conditions of Return from Leave

If you return from your Family and Medical Leave in twelve weeks or less, you will be entitled to return to the same or similar position without loss of employment benefits for which you are eligible on the date the leave commenced. If you advise the University that you do not intend to return to work (or if you fail to return to work by the expected return date), you will be considered to have resigned voluntarily from the University.

If you are granted a leave beyond the twelve week period, you shall receive every reasonable consideration by the University to return to your original position or to a position of like responsibility and pay; however, the University cannot guarantee your position at Boston University.

Please be advised that the term of your employment at Boston University and your employment rights are not extended or augmented as a result of an approved leave of absence.

Other Terms

Other terms that apply to your leave are marked below:

- _X_ You have given notice of a need for a Personal Leave. The leave is scheduled to begin (or already began) on May 16, 2000. You are currently expected to return to work on your regular schedule on August 8, 2000. Please let me know as soon as possible if circumstances change that could affect the timing of the beginning or end of the leave.
- _X_ You have requested a Personal Medical Leave. Entitlement to the leave is subject to medical verification. Please have your health care provider complete the attached Certification of Physician or Practitioner and ensure that it is returned to me within 15

Family and Medical Leave Request
 July 7, 2000

schedule for your leave is as follows:

Other terms:

Page 3

days. Failing to have the form completed and returned in a timely manner could result in the delay or denial of the leave. If your provider of health care services is not a licensed physician, you may need to have the Certification completed by someone else. Please let me know if you have any questions about whether your provider of health care services may complete the form. In any event, you may be required to obtain a second opinion from a physician designated by the University. In some cases, a third opinion may be required. You may also be required to provide medical verification during the course of the leave. Provided that there is timely medical verification for the leave, the leave is scheduled to begin (or already began) on May 16, 2000. You are currently expected to return to work on your regular schedule on August 8, 2000. Please let me know as soon as possible if circumstances change that could affect the timing of the beginning or end of the leave. Due to the anticipated length of your Personal Medical Leave, before you return to work you will be required to provide me with a certification from your health care provider that you are able to return to work. You are required to deliver to me medical verification to support the leave every 30 days. Please ensure that the health care provider updates his or her medical assessment and completes new certifications so that I receive them every 30 days during your leave. Provided that you receive proper medical verification (subject to the second and third opinion process set forth above) that an intermittent or reduced leave schedule is medically necessary, you will be placed on such a leave. The schedule for your leave is as follows: You and the University have agreed to an intermittent or reduced leave schedule. The

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- Family and Medical Leave Request

Page 4

July 7, 2000

If you should have any questions regarding Boston University's Family and Medical Leave Policy, please feel free to contact me directly at 638-4610.

Sincerely,

George Tonowdon Director of Personnel

PDT/

Attachment

Copy: Maureen Corbett, Mail Code Coordinator, with attached Paid Time form

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Instructions:	Please complete all applicab	ie sections, sign and date this fo	orm.	
Section One:	Your information	*************************************	******	
Re	:dected		Nurse Interview	er
Glaca &	pidemiology Wn	it,	Title 617-734-6006	Redacted
DIONE 4	UnivDept Of	-	Phone: Office	Hor.
Section Two:	Type of Family and Medical Leave	Please Indicate below which	h type of leave you are requesting:	Complete
	Reason for Request	Purposa	Documents Needed	Sections
	Medical Leave	Birth of Child or Maternity Leave	None	Four or Five, and Seven
		My Serious Health Condition	Medical Certification Form	Four or Five, Six and Seven
+ 1	[] Personal Leave	Care for Family Member with Serious Health Condition	Medical Certification Form and Certification of Need for Employee's Presence	Four or Five, Six and Seven
		[] Adoption, Foster Care, Placement of a Child' or Care of Newborn Child Born to Spouse	"Verification of placement of child	Four or Five, and Seven
Section Three	Other Personal Leave	<u> </u>	Written request from employee	Four and Seven
Section Four:	Period of Your Leave (O I expect to be away from wo	ther than Intermittent or Re	duced Time Leave) k days:	
	FROM: 5/17/00	TO: unknown	Total Work Days Away:	
Section Five:	Flexibility on Scheduling I am requesting the following	of Your Leave Time (Into	ermittent or Reduced Time Leav e schedule for the duration of my le	e) eve:
	Please refer to reverse of to	rm for explanation.		E302
Section Six:	Documents Required for The documents indicated in 2 are included or	F Approval of Your Red Section Two: [] will be sent within 15 da	tuest tys of the date of this request.	
Section Seven:	Signatures/Approvals I have read and under	stand the information or	the reverse side of this form	cllo-
			617-734-6006	
	Other Departmental Signat		Supervisor's Phone Number	9/
	PLEASE READ IMPOR	TANT INFORMATION O	N REVERSE SIDE	37

Note: Once your leave request has been reviewed and approved, you will receive written confirmation from the Office of Personnel.

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A member of CAREGROUP

Filed 03/03/2006 Page 12 of 17

Arnold Pain Management Center

330 Brookline Avenue Boston, Massachusetts 02215 USA 617 667-3334 Fax 617 667-8065

May 16, 2000

To Whom It May Concern:

Re: Redacted

Thank you for your cooperation in this matter.

Sincerely,

Joseph F. Audette, M.D.





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EXHIBIT 2

Boston Case 1:04-cv-10644-MEL

Office of the General Counsel 125 Bay State Road Boston, Massachusetts 02215 Tel: 617-353-2326 Fax: 617-353-5529



Filed 03/03/2006

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Todd L. C. Klipp Vice President and General Counsel

Michael B. Rosen Lawrence S. Elswit Stephen A. Williams Dennis C. Hart Erika Geetter Willis G. Wang Diane Levine Gardener Crystal D. Talley

By Telefax and U.S. Mail May 25, 2005

Harry C. Beach, Esq. Law Offices of Harry C. Beach 30 Walpole Street Norwood, Massachusetts 02062

RE:

Mellen v. Trustees of Boston University, et al., Civil Action No. 04-10644-MEL (D. Mass.)

Dear Mr. Beach:

I write in response to your letter of May 19, 2005.

After conducting a reasonable investigation, the University is not aware of any other employee on the Medical Campus who failed to return from FMLA leave under circumstances similar to Ms. Mellen's, that is, without notifying anyone at BU that they did not plan to return or asking for additional time. Documents concerning employees who were not similarly situated to Ms. Mellen are not relevant, and the University stands on its objections. I believe you are mistaken as to Ms. Knecht's testimony. My notes indicate that she testified that she did not believe the "3-day grace period" was relevant to FMLA leave, and that she was not aware of any situation in which an employee did not notify the University that they did not intend to return from leave or needed additional time. We can, of course, resolve any issue regarding her testimony once we receive the transcript.

As I'm sure you appreciate, an employee's personnel file – and particularly the circumstances of medical leave – are highly personal. You have not articulated any reason that the personnel file of Ms. Dennis, who appears to have nothing whatsoever to do with Ms. Mellen's situation, is relevant to this case. Under those circumstances, the University is not obliged to produce her personnel file. See, e.g., Whittingham v. Amherst College, 164 F.R.D. 124, 127 (D. Mass. 1995).

If you have any questions please do not hesitate to call.

Best regards,

Crystal D. Talley

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